

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A29 924 142 - Texas Service Center

Date: **APR 28 1997**

In re: ROSA MARGARITA ESTEVES DE LOMENA, Petitioner, as widow of
CARLOS JESUS LOMENA

IN VISA PETITION PROCEEDINGS

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APPEAL

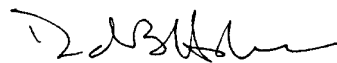
ON BEHALF OF PETITIONER: Charles R. Colbrunn, Esquire
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ON BEHALF OF SERVICE: Patricia H. Flynn
Assistant Regional Counsel

APPLICATION: Petition to classify status of alien relative for issuance of immigrant visa

ORDER:

PER CURIAM. The appeal is dismissed. The Texas Service Center (TSC) director denied the visa petition filed by the petitioner under section 201(b) of the Immigration and Nationality Act, 8 U.S.C. § 1151(b), on the ground that the petitioner had not filed the petition within 2 years of the death of her United States citizen spouse. See section 201(b)(2)(A)(i) of the Act. The petitioner's spouse died in January 1986. On appeal, the petitioner argues that, because her husband died before the Act was amended to limit the time period that a widow or widower may file a visa petition based on her or his marital relationship to the deceased, she had 2 years from the date of enactment of section 302(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Pub. L. No. 102-232, Dec. 12, 1991, 105 Stat. 1742 et seq.), which amended the Immigration and Nationality Act to include the 2 year time provision for filing visa petitions as the widow or widower of a United States citizen, to file her visa petition. We note that section 302(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 applied retroactively and took effect on November 29, 1990. Therefore, the petitioner had until November 29, 1992, to file her visa petition. 8 C.F.R. § 204.2(b)(1)(ii). As the petitioner does not dispute the Immigration and Naturalization Service's statement that she filed her visa petition (Form I-360) on March 19, 1993, we find that the petitioner did not file her visa petition within the required time period and, thus, her appeal is dismissed.



FOR THE BOARD